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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,594	05/15/2006	Stephen William Sankey	DTG1-126US	1832

31344 7590 10/14/2010

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EXAMINER	
WATKINS III, WILLIAM P	
ART UNIT	PAPER NUMBER
1783	
MAIL DATE	DELIVERY MODE
10/14/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/564,594	SANKEY ET AL.	
	Examiner	Art Unit	
	William P. Watkins III	1783	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 August 2010*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-27 and 30-33* is/are pending in the application.

4a) Of the above claim(s) *21-27* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20 and 30-33* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☒ Other: *See Continuation Sheet*.

Continuation of Attachment(s) 6). Other: PTO Translation 10-3740 of JP-U 04041873 .

DETAILED ACTION

1. PTO Translation 10-3740 of JP-U 04041873 is attached to the instant office action and is listed as an office action appendix in the PTO electronic file. JP-U 04041873 is already of record in the instant case.

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-20 and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lin (WO 01/92000 A1)) in view of Dyke (U.S. 4,515,841).

Lin teaches a heat sealable packaging film that can have a polyester substrate with venting holes and a sealing layer over the entire surface of the film that covers the vent holes. The sealing layer melts in response to heat and pressure from micro wave cooking or sterilization (abstract, Figure 4, page 5, lines 10-25, page 14, lines 5-20, page 15, lines 20-30). Though Lin teaches starch as an ingredient of the sealing layer (page 11, line 11), the reference fails to explicitly teach use of a water soluble sealing layer. Dyke teaches the use of either a polymer that softens when it is heated or a water soluble polymer such as polyvinyl alcohol that absorbs steam and expands and

dissolves to form an opening when a water containing substance is heated in a package (abstract). The instant invention claims a water soluble barrier layer over an opening in a thermal sealed package with a vent hole that is covered by a barrier of a water soluble material that extends across the entire surface of the substrate film with the vent opening. It would have been obvious to one of ordinary skill in the art to have used a water soluble instead of a heat sensitive barrier layer in Lin because Dyke teaches these as alternate substitutes in the bag venting art when the contents of the package or the environment in which it is processed contain water. Variation in the thickness of the soluble layer and variation in the selection of bag substrate and soluble barrier materials is taken as being within the ordinary skill of the art depending on the strength of the seal desired and the desired opening temperatures and pressures, absent unexpected results.

4. Claims 1-20 and 30-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kyou et al. (JP-U 04041873, PTO Translation 10-3740).

Kyou et al. teaches a water soluble sealing layer that may be over either a fiber layer of a perforated film layer (page 5 and 8 of the translation, elements 12 and 13). The film melts or softens when exposed to heat and water vapor from heating food in a container sealed by the layer. The instant invention claims a water soluble sealing layer on top of a perforated film layer that allows for venting during cooking. It would have been obvious to one of ordinary skill in the art to have selected a perforated film from the options of permeable substrates in order to practice the invention of the reference.

Variation in the thickness of the soluble layer and variation in the selection of the film substrate and soluble barrier materials is taken as being within the ordinary skill of the art depending on the strength of the seal desired and the desired opening temperatures and pressures, absent unexpected results.

5. Applicant's arguments with respect to claims 1-20 and 30-33 filed 02 August 2010 have been considered but have not been found to be persuasive.

Applicant argues that Lin teaches that the barrier layer must be water resistant and that it must be re-sealable. Though these features are taught in the reference, the examiner disagrees that these are essential elements of the invention of Lin. The essential function of Lin is that the sealing film and substrate vent when exposed to steam during cooking. Lin specifies the use of starch, fatty acids, and surfactants as possible components of a seal layer. Though not explicitly taught as being water soluble, all of the materials would be known to one of ordinary skill in the art as not always being water resistant. Therefore one of ordinary skill in the art would construct water resistance as an optional feature of the reference. Whether a seal layer needs to be reusable or not depends on the economics of the particular application and also would have clearly been an optional feature to one of ordinary skill in the art. The new rejection using Kyou et al. has no teaching of being re-sealable and explicitly teaches a water soluble barrier layer.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 571-272-1503. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on 571-272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR of Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WW/ww
October 13, 2010

/William P. Watkins III/
Primary Examiner, Art Unit 1794